



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt Resolution Eliminating Early Lock-in Date for Development Impact Fees Established in Resolution 2004-238 and Establishing that Development Impact Fees established by Resolution 2004-238 will not be locked in until the time required by California Law.

**MEETING DATE:** December 21, 2005 City Council Meeting

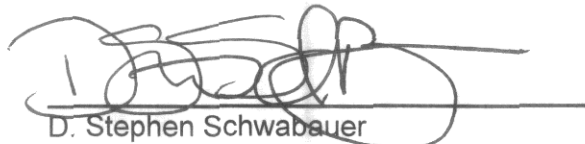
**PREPARED BY:** City Attorney's Office

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**RECOMMENDED ACTION:** Adopt Resolution eliminating early lock-in of Development Impact Fees.


**BACKGROUND INFORMATION:** California law allows cities to collect new impact fees or increased impact fees at any time until the development has acquired a vested right to develop under existing standards. That right does not vest until the developer has performed substantial work and incurred substantial liabilities in good faith reliance on a permit issued by regulatory authorities. (Avco Community Developers v. South Coast Regional Commission 17 Cal 3d 785 (1976)). Despite this limit, Lodi's 2004 impact fee adjustment allows developers to in some instances, lock their fees in earlier than the timeline required by Avco. That allowance exposes the impact fee programs to increases in costs that accrue during the period between the time the fees are paid and the time the impact fee program improvements are constructed. Those increases must of necessity come from some other City fund, instead of the development that spurred the need for the impact fee program. Accordingly, staff recommends that Council amend Resolution 2004-238 to provide that the fee increases established in Resolution 2004-238 are not locked in until the latest date allowed by California Law.

**FISCAL IMPACT:** Increase to IMF funds

  
D. Stephen Schwabauer  
City Attorney

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APPROVED:

  
Blair King, City Manager

RESOLUTION NO. 2005-263

A RESOLUTION OF THE LODI CITY COUNCIL  
RESCINDING AND REPLACING CERTAIN  
LANGUAGE IN RESOLUTION NO. 2004-238  
RELATING TO IMPACT FEE INCREASE

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WHEREAS, the City Council adopted Resolution No. 2004-238 on November 3, 2004, amending the fees for Storm Drainage, Streets and Roads, and Parks and Recreation; and

WHEREAS, Resolution No. 2004-238 established certain exemptions for projects from the increase in fees established therein. The exemptions were in excess of those required by California law; and

WHEREAS, the City Council desires to ensure that the City of Lodi collects increased costs for the programs funded by Development Impact Fees that arise when a project begins construction later than the date Resolution No. 2004-238 allows fees to lock in.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that:

1. All text following the first sentence of Section 3 of Resolution 2004-238 is hereby rescinded as of the date of this Resolution and replaced with the following: The increased fees in "Resolution No. 2004-238 will not apply to any project which has satisfied all elements necessary under California Law to be exempt from increases in impact fees."

Dated: December 21, 2005

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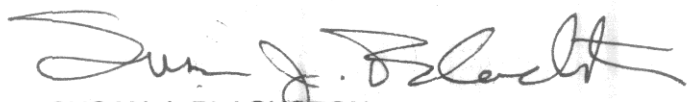
I hereby certify that Resolution No. 2005-263 was passed and adopted by the City Council of the City of Lodi in a regular meeting held December 21, 2005, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Johnson, Mounce,  
and Mayor Hitchcock

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

  
SUSAN J. BLACKSTON  
City Clerk